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Addendum

The Ultimate Retirement and Estate Plan for Your Million-Dollar IRA

Including How to Protect Your Nest Egg from the Pending "Death of the Stretch IRA" Legislation

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Critical Change to IRA Distribution Rules for Heirs Other than Your Spouse

The August 2016 publication of our little black book, ***The Ultimate Retirement and Estate Plan for Your Million-Dollar IRA***, predicted the eventual "Death of the Stretch IRA." What we couldn't anticipate at that time was *when* Congress was going to change the law or *what* the effective date was going to be. Then, in September, one month after we went to press, the Senate Committee on Finance voted 26-0 to effectively kill the "Stretch IRA" and two months later, in November, the "Death of the Stretch IRA" provision was included in what is formally known as Senate Bill 3471, the "Retirement Enhancement and Savings Act (RESA) of 2016." Although RESA did not pass in 2016 and predicting tax legislation given current politics is challenging, the wise course of action is:

- **to learn about the bill,**
- **to take steps that will protect your assets whether a bill with similar provisions passes or it doesn't, and**
- **to be prepared to take additional action steps if and when it does pass.**

If you just wait until the "Death of the Stretch IRA" provision passes to do something, you could miss important opportunities to implement the planning strategies recommended in the main book supplemented by this Addendum.

We think it is pretty safe to say the ax has fallen, and retirement and estate planning for individuals with large IRAs will never be the same.

The "Death of the Stretch IRA" refers to the proposed legislation that, subject to exceptions, would force the non-spouse beneficiary of an inherited IRA to pay income tax on the entire IRA within five years of the IRA owner's death. This will dramatically accelerate the taxes and likely increase the tax rate too. Regarding the "Death of the Stretch IRA," the book is pretty much right on point.

But the Senate Committee added a couple of wrinkles that we did not anticipate. This Addendum addresses the portion of the legislation we did not predict and makes new recommendations in response to these unanticipated changes. One interesting facet of the bill was that, at least as it was written, it would be applied retroactively. This means that it is likely that the new rules are slated to apply to IRA owners who die on or after January 1, 2017 even if a new bill with the "Death of the Stretch IRA" provision becomes law in 2017.

The other unknown is whether Congress will make any more changes—but I would be surprised if there were significant changes. Not to be too morbid, but the overwhelming odds are that this law—as described or some similar version—will be in place when you die.

Since it is so critical to take action immediately, I believe it is more important to get this information out now, than to wait until the final bill passes. Even if you don't die for many years, many of the steps you can take now could have an enormous impact on your family's financial security. The "Death of the Stretch IRA" is terrible news for IRA owners, or more accurately, the heirs of IRA owners. Your heirs, however, are probably busy spending money while you are staying home reading about strategies to protect their inheritance…such is the lot of parents.

What is a Stretch IRA and Why is Its Death Significant?

The answers to these questions are thoroughly explained in the book. But, if you are reading this Addendum without having read the book, this shortened explanation may help. A *stretch IRA* occurs when an IRA (or retirement plan) with an individual (or a trust for an individual) as the beneficiary, maintains the tax-deferred status of the account after your death. The *stretch* refers to keeping as much money as possible for as long as possible in the tax-deferred account which is made possible by giving the beneficiary the option to limit distributions to the required minimums. This is similar to the smart strategy of the IRA owner who only takes the *minimum* required distribution after age 70 to limit paying premature income taxes. The stretch IRA allows continued but limited tax deferral after your death. Stretching your IRA after your death can offer significant financial advantages to your heirs. These advantages can amount to hundreds of thousands of dollars for your children, and sometimes millions of dollars for your grandchildren.

The stretch IRA is under siege. We anticipated this siege in our two peer-reviewed articles that were published in ***Trusts & Estates*** in January and February 2016 and our book, ***The Ultimate Retirement and Estate Plan for Your Million-Dollar IRA*** *including How to Protect Your Nest Egg from the Pending "Death of the Stretch IRA" Legislation*.

To allow you to visualize the magnitude of the difference between keeping money in the tax-deferred environment for as long as possible, and having to empty the inherited IRA within five years as required by the proposed legislation, the graph below show the two outcomes for an inherited $1 million IRA.

Potential Impact* of the "Death of the Stretch IRA"

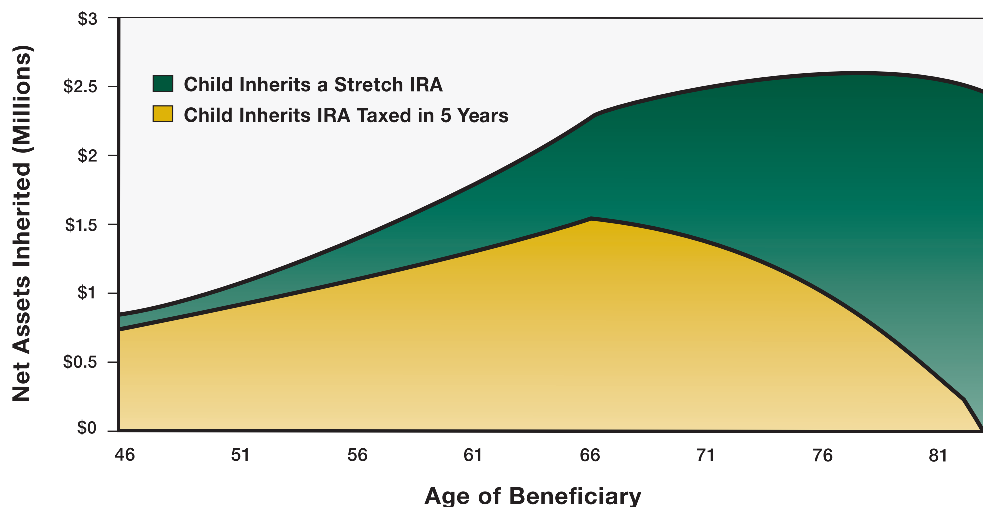

Chart Assumptions:
- Child inherits IRA at age 45, and earns $100,000 annually during working years
- Child retires at age 67, and receives $40,000 in Social Security income annually
- $90,000 Expenses, adjusted annually by 3.5% • Rate of Return is 7%

* *This is a hypothetical illustration for illustrative purposes only. Returns cannot be guaranteed and actual results will vary.*

There are, however, two bright spots in the proposal that you should know about. First, as we anticipated, Congress is not planning to change the laws applying to IRA and retirement plan money that you leave to your spouse. Second, which we did not anticipate, the Committee recommended that $450,000 (indexed for inflation) be excluded from the "Death of the Stretch IRA" legislation. And while it's possible that Congress could ultimately vote for a different amount, the idea of any exclusion at all creates both great opportunities and complications.

The Implications of the $450,000 Exclusion from the Death of the Stretch IRA

As we have indicated, the proposed rules stand in sharp contrast to the current law that allows a non-spouse beneficiary to "stretch" distributions of the entire inherited IRA over their lifetime. If things go forward as proposed, it will no longer be that simple. Your children (or other non-spouse beneficiaries) will still be able to "stretch" $450,000 of your IRA and pay the taxes on that amount over their lifetimes, but will be required to pay the income taxes on any amount over $450,000 within five years of your death. These rules apply to traditional and rollover IRAs, as well as 401(k)s and other retirement plans.

Perhaps even more unfortunately, the new rules will also apply to inherited Roth IRAs or Roth 401(k)s. As with the traditional IRA, if all you left your non-spouse beneficiary was a $450,000 Roth IRA, your non-spouse beneficiary would be able to "stretch" the $450,000 and withdraw it over the course of his lifetime. But, anything in excess of $450,000, must (potentially subject to some exceptions) be distributed within five years. Of course, he will not have to pay income taxes on those withdrawals because it is an inherited Roth IRA, but losing the long-term benefit of continued tax-free growth in the Roth is a major loss. Please note that the $450,000 exclusion applies to all retirement plans that the IRA owner owned at his death.

So, the $450,000 exclusion creates planning headaches, but more importantly opportunities that we did not cover in the original book. What follows assumes you understand the implications of the "Death of the Stretch IRA," and/or that you have a fundamental understanding of how disclaimers work. If not, I strongly encourage you to read those sections in the book before reading any further.

Please keep in mind that the law regarding leaving an IRA or retirement plan to a surviving spouse did not change. The old rules will continue to apply, including the most important option: the ability of the surviving spouse to do a rollover or trustee-to-trustee transfer (our preference) to his or her own IRA.

How the $450,000 Exclusion Works

A Basic Example of the New Exclusion

Suppose that you die with a total of $400,000 in your only IRA, and that your beneficiary is your only child. Under this scenario, your child will be able to "stretch" your IRA over her lifetime. Why? Because the value of the account at your death is less than $450,000, so the inherited IRA will be excluded from the five-year holding limit and the accelerated tax payments. Now let's suppose that there is $1.45 million left in your traditional IRA at the time of your death, and that your beneficiary is your only child. The proposed law will permit your child to "stretch" $450,000, over her lifetime. Unfortunately, she will be forced to pay income taxes on the remaining $1 million within five years of your death, because that's the amount that exceeds the allowable exclusion.

Where the Law Can Make Standard Planning More Complicated

For purposes of this illustration, I'm going to assume that Congress accepts the Finance Committee's recommendation to exclude $450,000 from the new rules. The new rule says that each spouse will be entitled

to one $450,000 exclusion from the "Death of the Stretch IRA," and an unused exclusion upon the death of the first spouse cannot be transferred to the surviving spouse. So, let's suppose you and your spouse each have $450,000 in traditional IRAs (and we are ignoring appreciation between now and the time of your deaths for the sake of simplicity). You name your spouse as your primary beneficiary, and, after your death, she does not disclaim any of your retirement assets. Your spouse now has $900,000 of retirement assets in her name, and when she dies your children will inherit IRAs worth $900,000. Your children will be able to stretch $450,000, but the remaining $450,000 will be subject to the accelerated taxation rules. This was potentially bad planning on your part, because your own exclusion was completely wasted. If you look at the graph above, it isn't hard to imagine that your children could have saved $500,000 or more by the end of their lives if they had been able to use two $450,000 exclusions instead of one.

The knowledge that an unused exclusion cannot be transferred to a surviving spouse should come as a wake-up call to readers who think they are safe from this legislation because neither spouse owns IRAs that are larger than the exclusion amount. If you have a $300,000 IRA, and your spouse has a $300,000 IRA, the survivor—unless he or she disclaims—will have an IRA worth $600,000 that is larger than the exclusion amount, and $150,000 will be subject to the accelerated taxation rules!

In instances where the surviving spouse will not need his or her spouse's IRA, or perhaps only need some of it, the importance of using the first exclusion cannot be overemphasized. I predict it will be routinely overlooked, and in many cases, not even considered.

Knowing what the law could be, makes it is even more important than ever to analyze the needs of the surviving spouse, the income tax rates of the IRA owner and his or her spouse, and the income tax rates of the IRA beneficiaries to develop an optimal strategy that will maximize the value of Roth IRA conversions and the stretch IRA exclusion amount.

The Exclusion Amount is Applied to Each IRA and Each Beneficiary on a Pro-Rata Basis (But Exceptions Apply)

The following section is a real bummer. One of the unfavorable features of the proposed law is that it combines the value of all of your retirement plans, *including Roth accounts*, and forces your (non-spouse) heirs to pro-rate the exclusion over all of them. Let's say you have $200,000 in a traditional IRA, $50,000 in a 401(k), and $650,000 in a Roth IRA for a total of $900,000 in your retirement accounts. You then die, leaving all of your retirement accounts to your only child. An exclusion amount of $450,000 means that 50 percent of your retirement assets can be stretched. A smart beneficiary would prefer to choose which retirement plan should be "stretched." For example, the beneficiary might want to exclude $450,000 of my inherited Roth IRA from the new rule—but that's not the way the proposed law works. In this case, your child will be allowed to stretch 50 percent of *each account*—or $100,000 of your traditional IRA, $25,000 of your 401(k), and only $325,000 of your Roth IRA.

What happens if you have more than one (non-spouse) beneficiary? The exclusion amount will be pro-rated among all your accounts. And, although I like the way you think, you cannot choose who gets to use the exclusion based on their income, tax bracket, or age. The allocation of the stretch IRA exclusion amount must be completed on a pro-rata basis among all of the beneficiaries. This would still be true if you left a portion of your IRAs to your children and a portion to your grandchildren.

A subtle point to keep in mind is that you should account for the fact that the $450,000 exclusion will not be pro-rated for beneficiaries who are not subject to the five-year income tax acceleration rule. For most of you, this applies to your spouse. Your spouse is an exempt beneficiary, and, no matter how much you leave her, her share is completely exempt from the proration rules. Suppose that the intended beneficiaries of your IRA are your spouse and your children. If you die with an IRA worth $1.45 million and either

outright or by disclaimer you leave $1 million to your spouse and $450,000 to your children, nothing will be prorated and everything will be eligible to be stretched. This happens for two reasons. First, everything that your spouse receives is completely exempt. Second, the dollar amount that your children will receive is within the allowable exclusion amount, so the share that they receive will also be fully exempt from the five-year tax acceleration rule.

Charitable Bequests and Charitable Remainder Trusts are Not Subject to the "Death of the Stretch IRA"

Your spouse, however, is not the only beneficiary who is exempt from the exclusion amount. Suppose that your intended beneficiaries are your children and a charity. If you die with an IRA worth $1.45 million and leave $1 million directly to a charity or a charitable remainder trust and $450,000 to your children, nothing will be prorated among your beneficiaries. This is because charities are also considered exempt beneficiaries, and their share is not subject to the five-year tax acceleration rule. And as in the above example, the $450,000 share passing to your children is within the allowable exclusion amount and can be stretched over their lifetimes.

As a final example, suppose that your intended beneficiaries are your children and a charitable remainder trust that will provide a lifetime income for your children. If you die with a $1.45 million IRA and leave $1 million to a charitable remainder trust for your children and $450,000 directly to your children, the exclusion will not be pro-rated among your beneficiaries because the charitable trust is not subject to the five-year tax acceleration rule. Therefore, the remaining $450,000 share that passes to your children will be fully exempt from the five-year tax acceleration rule because it is within the exclusion amount. However, please note that in this situation, the exact amount that the charitable remainder trust and the children receive must be determined in advance of your death. It cannot be changed by disclaimer after your death, because a child cannot disclaim into a charitable remainder trust for his or her benefit. The only beneficiary who can disclaim into a trust for his or her benefit is your surviving spouse.

It is becoming increasingly clear that a one-size-fits-all solution is an obsolete concept—optimal arrangements will need to be determined on family by family basis.

Technical Points Make Long-Term Planning Difficult

Additional Situations Which May Qualify for Stretch IRA Treatment

As under the current rules, there are exceptions for your surviving spouse, a disabled or chronically ill individual, an individual who is not more than ten years younger than you, and children who have not yet reached the age of majority. These beneficiaries may be able to continue to stretch an inherited IRA, but even then, there are exceptions to the exceptions.

Forcing Five-Year Payout for Successor Beneficiaries of Existing Inherited IRAs and Future Inherited IRAs

The proposed law makes no accommodations for grandfathering the current stretch rules with respect to successor beneficiaries. For example, if you inherited an IRA three years ago, you will be permitted to "stretch" that inherited IRA over the course of your own life. Because the original IRA owner died before January 1, 2017, the effective date for the new rules. You will operate under the old rules, but once you die and pass on the inherited IRA, your heirs will be subject to the five-year rule.

This entire "Death of the Stretch IRA" is a huge money grab by Congress and this provision just rubs salt in the wound.

Unfortunately, even your heirs who qualified for exemptions from the accelerated IRA taxation rules will eventually fall victim. For example, once a child beneficiary reaches the age of majority, he will be subject to the five-year rule. Furthermore, if he dies before reaching the age of majority, then his beneficiaries are subject to the five-year rule immediately—even if they are not of the age of majority themselves. The same is true of a disabled individual who inherits an IRA. When he dies, his beneficiary must withdraw and pay taxes on the IRA within five years. So, while the Finance Committee is willing to allow the stretch for individuals with unusual needs and for individuals who have already inherited IRAs under current law, they will not extend the privilege to their beneficiaries.

How the New Proposed Exclusion Plays into Your Plans for Your IRA or Retirement Plan

No Changes if the Family IRA Balance is Below $450,000

First, let's take the easy case, where the combined values of your IRAs and retirement plans for both you and your spouse will not exceed $450,000. In that case, the new law will not apply to you—unless Congress decides to use a different exclusion amount. If your retirement plan balances are small enough that you will not be affected by the new law, we still recommend that you carefully consider all of the suggestions made in the book. The good news is that you will not need to do any special planning for the "Death of the Stretch IRA," assuming you had the appropriate plan in place before the legislation changed.

Don't Accidentally Waste One of Your Exclusion Amounts if the Family Has More than $450,000 in Retirement Assets

Let's go back to the example where you have a $450,000 IRA and your spouse has a $450,000 IRA, or that the combined values of your IRAs is greater than the exclusion amount. Let's forget about growth between now and the time that both of you die. Let's also make the favorable assumption that your surviving spouse will have sufficient income from other sources to last her for the rest of her life without the $450,000 IRA that you were planning to leave to her.

One idea would be to leave your $450,000 IRA to your children or grandchildren, preferably to a well drafted trust for the benefit of grandchildren if your children don't need the money. That way you do not waste your $450,000 exclusion amount from the "Death of the Stretch IRA" which you would lose if you left it to your wife. You can leave $450,000 to your children without income tax acceleration because it is within the amount that that they are permitted to stretch.

But won't that impose a financial burden on your spouse? In the example above, I made the convenient assumption that your wife didn't need your $450,000 IRA. In real life, it is really hard to predict whether your surviving spouse will need your IRA for his/her own maintenance and support. One good planning technique, borrowed from the **Lange's Cascading Beneficiary Plan (LCBP)**, would be to make your surviving spouse the primary beneficiary of your IRA and include the right for her to disclaim your IRA or even a portion of your IRA to your children. This technique is covered in detail in Chapter 3 of the book, so I won't rehash the fundamentals here, but I think it would be worth your time to read about the inherent flexibility of the LCPB.

The critical point is that the new $450,000 exclusion only enhances the value of flexible estate plans, because a flexible plan provides the surviving spouse with multiple options. If your spouse accepts the IRA and then dies before spending any of it, your exclusion will probably have been wasted. You could leave the money outright to your children, but that might compromise the financial security of your spouse. Having a disclaimer option in place can protect your exclusion if your spouse does not need the money, but it also provides your spouse with the peace of mind that if he/she needs the money it is available.

Does the $450,000 Exclusion have an Impact on Planning for Charitable Remainder Trusts?

Let's say that you are single or without a surviving spouse. The balance of your IRA is $600,000 and your beneficiary is your one child who is in good health, doesn't need money immediately, and is likely to benefit enormously from receiving the income from a CRUT (see Chapter 5). Our recommendations in Chapter 5 would likely lead to the conclusion that it might be preferable to name a Charitable Remainder Unitrust as the beneficiary of your IRA rather than naming your child. According to our analysis in Chapter 5, if your child lives beyond the age of 72, the child will be better off as the beneficiary of the CRUT, and if the child lives much longer, the child will be better off by hundreds of thousands of dollars.

Now, the $450,000 exclusion adds a new wrinkle. If your IRA is worth $600,000, you might assume that you should leave $450,000 to your child so that he can stretch as much as legally possible, and put the remainder, $150,000, in a CRUT with your child as the income beneficiary.

But, as I said in the book, putting less than $300,000 in a CRUT doesn't make sense because of the fees and aggravation of both setting up the CRUT and more importantly, the tax return preparation and other costs of maintaining a trust. The exclusion now makes the remaining balance of the inherited IRA even more difficult to justify establishing a CRUT. You should probably not consider using a CRUT option unless you are putting $500,000 or more in the CRUT, but that is just an estimate. For IRA owners who like some of the charitable aspects of a CRUT and the forced gradual distribution of the IRA proceeds, it might be reasonable to consider doing a CRUT with less than a $500,000 balance—but that should be determined by the values and objectives of the IRA owner, perhaps setting aside financial considerations.

Here are some problems with CRUTS:

- **You need to have an attorney draft the CRUT; the legal fees could easily be several thousand dollars.**
- **You need to name a trustee.**
- **You can expect to pay an additional $500 to $1,000 every year for the remainder of the beneficiary's life, to maintain the trust from a legal and tax compliance standpoint. The CRUT is required to report the income that the beneficiary receives to the IRS, and must send the beneficiary of a CRUT a K-1 which complicates the beneficiary's own tax return. If your beneficiary lives for twenty years, it's not unrealistic to think that the fees required to maintain the trust will exceed $20,000 or more.**
- **Ultimately, you could be creating significant complications for less tax savings than you would have realized if you had just left the money to your child instead of the CRUT.**
- **On the other hand, including a CRUT as part of your estate plan may make perfect sense if the amount that goes in to it is high enough so the tax savings and the gains from the continued tax deferral that the CRUT can provide exceed the cost of maintaining it. It also might be that you like the charitable or gradual distribution of a CRUT and feel the financial trade-off is worth it.**

Let's look at two examples. Suppose that at your death you leave one IRA that is worth $1.45 million, your two children are your only heirs, and that you have established two CRUTs for their benefit. Because your children cannot disclaim to a CRUT for their own benefit, your beneficiary designation will need to specify the amount that goes in to the CRUTs at your death—that would be everything over and above the exclusion amount. The exclusion would be pro-rated between your two children, so each of them

could "stretch" $225,000 of your IRA. The remaining $1 million would be split between the two CRUTs, and your children would receive income from the CRUTs for the rest of their lives.

On the other hand, here is another example. Suppose you had an IRA worth $600,000, and one child. It might make sense for you to leave the entire IRA to your child outright. Your child can then take advantage of the stretch on $450,000, and pay the accelerated taxes (over five years) on the remaining $150,000. In this case, even the cost of the accelerated taxes on the $150,000 would be less than the fees and aggravation associated with the CRUT.

Since the book was written, there has been considerable back and forth about the advisability of a CRUT as the beneficiary of an IRA in lieu of naming your child or children. Matt Schwartz's (an estate attorney in our office) objection, which is quite sound, is if you leave at least a portion of your IRA to a CRUT, it could potentially hurt the family in the event of a premature death of the income beneficiary of the CRUT. For example, if a CRUT is funded with your IRA, your child will receive an income for the rest of his life. But what if he dies prematurely? The remaining balance will go to the charity and the grandchildren will be left without a parent and without money. Of course Matt is right in pointing out this gaping problem with a CRUT for people who aren't charitably inclined. A potential response to that objection is that it is one of the risks you must consider before naming a CRUT vs. a child. Perhaps the other advantages outweigh the chances of a premature death of the child. Perhaps that risk could be covered with a cheap term life insurance policy. Both Matt and I agree, it works best in fact patterns that include large IRAs and few beneficiaries. Even for that group, however, it isn't a simple call, and the client should make a decision knowing all the risks and rewards.

Optimizing the Use of Disclaimers with IRA Assets

In an ideal world, I, as a planner, would have the following hierarchy of beneficiary choices in the event that one spouse dies and leaves an IRA to his family:

1. **Surviving spouse**
2. **Children equally**
3. **Separate Charitable Remainder Unitrusts for each surviving child**
4. **A separate trust for the benefit of each grandchild, or some set of grandchildren — most likely all the grandchildren in one sibling's family being treated the same as all the grandchildren in his or her sibling's family (most likely per stirpes, possibly per capita — but that is a whole other subject that will not be explored here).**

Under the current law, it is relatively easy for a skilled estate attorney to achieve disclaimer provisions for the spouse, the children, and trusts for the benefit of grandchildren. This is the essence of the effectiveness of Lange's Cascading Beneficiary Plan (LCBP) — long-proven both by scholarship and over twenty years of experience. Our office has drafted over 2,400 of these plans. The $450,000 exclusion from the "Death of the Stretch IRA," though, makes it much tougher to arrive at an optimal arrangement. Unfortunately, the CRUT is not a disclaimer option for a child since a child cannot disclaim into a trust in which he has a lifetime interest. The spouse could disclaim into a CRUT for the benefit of the child but the child can't disclaim their portion into a CRUT where they retain an income interest. The children could, however, disclaim into a trust for the benefit of the grandchildren.

CRUTs can still be an effective beneficiary of a large IRA if the family has genuine charitable intent — and you don't have to disinherit your family in the process.

One option would be to provide a direct inheritance to children and/or grandchildren through life insur-

ance and/or other lifetime gifts, name the children (with disclaimer options for grandchildren) for the $450,000 of the IRA that is exempt from the five-year tax acceleration rules and then name a charitable trust for the children as the beneficiary of the remainder. Designating the charitable trust as a beneficiary could not be changed by disclaimer, but would still provide the children with a substantial inheritance and the potential for a great inheritance if the beneficiaries live a long time. The choice of a CRUT over a child assumes of course, that the family has received a significant income even if the beneficiary dies early and the balance of the charitable trust goes to charity. So why should you consider this option? The reason is that when an IRA or a portion of an IRA is paid to the trust, the taxes on the IRA are effectively "stretched" because the distributions from the trust are received by the beneficiary over his lifetime rather than five years.

I would like to reiterate that families who can afford to transfer assets to their children should think about lifetime gifts. One of the values of a lifetime gift would be to provide after-tax assets to pay the income taxes that will be due on the portion of the IRA that is subject to the accelerated taxation rules. Of course, as I mentioned in the book (which can be downloaded for free at www.paytaxeslater.com), the strategy of taking out a portion of your IRA, paying income tax on it now, and then gifting the remaining after-tax dollars to your children or grandchildren is a great technique if you can afford the gift. Using a tax-free vehicle like life insurance, Section 529 plans, or funding your children's or grandchildren's Roth IRAs are gifts that can have an unequaled impact on their lives.

Technical Note on Disclaimers

The following issue is a problem we have had in practice. Theoretically, and as far as the IRS is concerned, you can disclaim as much or little as you want. Let's assume your spouse died with a $1,450,000 IRA and left it to you and included disclaimer provisions for you to be able to disclaim as much or as little as you want in which case the secondary beneficiary, the children equally, would receive the disclaimed amount. We have had IRA custodians who did not permit a partial disclaimer of an IRA. This isn't a tax or IRS issue, it is a practical issue having to do with the custodian's current practices. It would be reasonable to ask and preferably get in writing ahead of time that the custodian will respect a partial disclaimer. Alternately, you could have a separate IRA, perhaps with a $450,000 balance that could be disclaimed by disclaiming the entire account instead of trying to split an account with some disclaimed and some kept.

The Future of Estate Planning

In a nutshell, for most of us, estate planning is not about saving federal estate taxes after death. It is about making sure our money goes where we want it to go after we die. Secondly, we want to cut income taxes after death. With the current $5.49 million federal estate tax exemption per individual ($10.98 million federal estate tax exemption per couple), most couples don't have to worry about estate taxes.

The proposed changes to the stretch rules for IRAs have only made optimizing long-term plans for individuals with large IRAs or retirement plans all that more complicated. It is important to realize that the $450,000 exclusion could potentially change your entire strategy for distributing your estate.

Though it might sound self-serving, I wonder how many other attorneys will be in a position to run the numbers to compare the projected results of different arrangements and different configurations of the estate plan. We have invested a lot of time and energy developing our analytics. Your attorney needs good drafting skills to draft whatever seems to make the most sense in terms of both income tax planning and, perhaps more importantly, providing or over-providing for the people you want to provide for.

Lange's Cascading Beneficiary Plan makes a lot of sense for many traditional what I call "Leave it to Beaver" families—including families with large IRAs. Arguably, the flexibility built into Lange's Cascad-

ing Beneficiary Plan becomes even a more powerful plan if you consider the complications of a Charitable Remainder Unitrust. The flexibility, however, while still valuable, no longer offers a "default" that accommodates the new reality. For better or worse, planners and IRA owners will really have to think through the income tax implications of the estate plan to maximize assets left to the family.

Let's be realistic, most traditional couples want to provide for their surviving spouse, their children equally next, and then trusts for the benefit of their grandchildren. With Lange's Cascading Beneficiary Plan, they can essentially do that—and interestingly enough, at least under the current law, it's probably a great income tax plan also. From an income tax standpoint, the flexible plan allows for the possibility of a younger beneficiary and a long "stretch" while still protecting the surviving spouse if the surviving spouse needs the money. Furthermore, LCBP has a long shelf life; unless significant changes in the family occur, even if assets go up or down, the plan's flexibility adapts.

However, with the government constantly seeking new ways to raise revenue, things have changed. The chances are greater that even a flexible plan might need tweaking to keep things optimal. This will mean more frequent visits to the estate attorney and number cruncher to evaluate a plan's effectiveness.

We are fortunate in our firm to have two attorneys with strong quantitative skills and two CPAs who are master "number crunchers." Together we develop optimal plans for IRA owners. ***The Ultimate Retirement and Estate Plan for Your Million-Dollar IRA*** spells out the differences between mediocre and ideal planning. Good planning could return hundreds of thousands of dollars or more when you investigate the different strategies to avoid the "Death of the Stretch IRA" and also the additional possibilities suggested in this Addendum.

Though the "Death of the Stretch IRA" is certainly a major blow to IRA owners who want to effectively pass their IRA to their children and grandchildren, we hope we have given you some tools to combat these changes. It is more important than ever that IRA owners discuss how the new rules impact their situation with their advisors.

Most of the strategies in ***The Ultimate Retirement and Estate Plan for Your Million-Dollar IRA*** are timely and relevant: flexible estate planning, lifetime gifting, Roth IRA conversions, insurance, disclaimer of the portions of the IRA, etc. CRUTs, because of their cost, may no longer be a reasonable consideration if your IRA balance is close to the exclusion amount.

Regardless, this would likely be a good time for individuals with significant IRAs to review their estate plan with a strategic estate attorney or CPA. Not only should wills, trusts, and IRA beneficiary designations be reviewed, but also comprehensive planning.

If you do not have a CPA or estate attorney to help with this work, and you are interested in additional resources and/or help, please see page 77 of ***The Ultimate Retirement and Estate Plan for Your Million-Dollar IRA***.

Note: This Addendum is a supplement to the book. The disclaimer in ***The Ultimate Retirement and Estate Plan for Your Million-Dollar IRA*** *also applies to this Addendum.*

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